

**RULES OF
PRACTICE AND PROCEDURE
of the
UNITED STATES
DISTRICT COURT
FOR THE WESTERN DISTRICT
OF NORTH CAROLINA**

*LOCAL RULES OF CIVIL PROCEDURE

*LOCAL RULES OF CRIMINAL PROCEDURE

RULES OF PRACTICE AND PROCEDURE

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I. LOCAL RULES OF CIVIL PROCEDURE

CITE THESE RULES AS:

LOCAL RULE _____

"LR _____"

LR 3.1. FILING FEE, BOND, SECURITY AND PROHIBITED SURETIES.

(A) *Filing Fee and Cost Bond.* In every civil action commenced in or removed to this court, there shall be filed at the time of commencing or removal a filing fee in such amount as determined according to law. In a civil case commenced in this court, no bond, or cash deposit in lieu of such bond, as security for costs shall be required except on motion and for good cause shown.

(B) *Security.* In both civil and criminal actions, bonds shall be allowed and taken with security, or one or more securities, as provided by the federal statutes, the Federal Rules of Civil Procedure, and the Federal Rules of Criminal Procedure. The judges of this district may, for good cause, enter orders restricting any bonding company or surety company from being accepted as surety upon any bond in any case or matter in this district.

(C) *Prohibited Sureties.* Members of the Bar, administrative officers or employees of this court, or the United States Marshal and his deputies or assistants, shall not act as surety in any suit, action, or proceeding pending in this court.

LR 5.1. FILING OF PAPERS, PRESENTING JUDGMENTS, ORDERS, AND COMMUNICATIONS TO JUDGE AND SEALED RECORDS

(A) *Filing of Papers.* An original and one copy of all pleadings, motions, memoranda, orders, and judgments shall be filed with the court in duplicate. All papers of every sort may be filed at Statesville, Charlotte or Asheville regardless of the Division in which the case may be pending as may suit the convenience of counsel.

(1) A motion for consolidation shall be filed only in one of the cases involved with a notice of the motion being filed in the proposed member case(s). **After consolidation all further proceedings will be docketed and filed in the designated lead case only. In the event the lead case is not designated in the order for consolidation, the first filed case will be designated as the lead. Each pleading filed shall note the designated lead case number and an original and one copy of each documents is to be filed.**

(2) All pleadings filed in a civil case **may** include one extra copy marked “REDACTED COPY.” All personal identifiers including Social Security numbers, dates of birth, financial account numbers and names of minor children are not to appear in this “REDACTED COPY.” Counsel may also redact any other personal identifier information which they deem appropriate. This copy is the one which will be made available in electronic format to the public. **If counsel file a “REDACTED COPY” an unredacted copy may also be filed which will be available for public viewing, unless the document is filed under seal. This unredacted document will not be scanned into our electronic database.**

(B) *Presenting Judgments, Orders, and Communications to Judges.* Judgments and orders submitted by counsel will ordinarily be sent to the clerk in the appropriate division and not to the judge, unless shortness of time or other good reason appears for sending them directly to the judge. Copies as may be needed will be certified by the clerk.

All communications (letters, briefs, enclosures, etc.) sent to a judge about a case must show the provision of a copy thereof either hand delivered or mailed to opposing counsel.

(C) *Seeking a Continuance.* Any motion filed seeking continuance of a hearing or trial shall be filed immediately upon counsel's learning of the need for same and must, in any event, be timely filed.

(D) *Sealed Matters.*

(1) New Civil Cases: A civil complaint may be sealed at the time the case is filed if the complaint is accompanied by an ex parte motion of the plaintiff/petitioner accompanied by an order sealing the case. The case will be listed on the clerk's index as Sealed Plaintiff vs. Sealed Defendant.

(2) Pending Cases: A pending case may be sealed at any time upon motion of either party and execution by the court of a written order. Unless otherwise specified in the order, neither the clerk's case index nor the existing case docket will be modified.

(3) Documents: Documents ordered sealed by the court or otherwise required to be sealed by statute shall be marked as such within the document caption and submitted together with the judge's copy prepared in the same manner. If the document is sealed pursuant to a prior order of the court, the pleading caption shall include a notation that the document is being filed under court seal and include the order's entry date.

No document shall be designated by any party as "filed under seal" or "confidential" unless:

- (a)** it is accompanied by an order sealing the document;
- (b)** it is being filed in a case that the court has ordered sealed; or
- (c)** it contains material that is the subject of a protective order entered by the court.

(4) Case Closing: Unless otherwise ordered by a court, any case file or documents under court seal that have not previously been unsealed by the court order shall be unsealed at the time of final disposition of the case.

(5) Access to Sealed Documents: Unless otherwise ordered by the court, access to documents and cases under court seal shall be provided by the clerk only pursuant to court order. Unless otherwise ordered by the court, the clerk shall make no copies of sealed case files or documents.

LR 7.1 . MOTIONS IN CIVIL ACTIONS

(A) *Motions in Writing.* Unless made during a hearing or trial, all motions must be put in writing and shall state with particularity the grounds of the motions and shall set forth the relief or order sought. As required by LR 5.1(A), all motions and supporting memoranda shall be filed in duplicate. Any motions other than for dismissal, summary judgment, or default judgment should show that counsel have met and attempted in good faith to resolve areas of disagreement and should set forth which issues remain unresolved.

All motions will ordinarily be ruled upon without oral argument, unless otherwise ordered by the court.

(B) *Time Frames for the Filing of Responses to Motions and for Reply Motions.* Responses to motions, if any, shall be filed within fourteen (14) days of the date on which the motion is served, as evidenced by the certificate of service attached to said motion. When a motion is served by mail, the respondent shall have an additional three (3) days to file a response, pursuant to Fed. R. Civ. P. Rule 6(e).

A reply to the response to the motion, if any, shall be filed within seven (7) days of the date on which the response is served, as evidenced by the certificate of service attached to said response. When a response is served by mail, an additional three (3) days is granted in which to file the reply, pursuant to Fed. R. Civ. P. Rule 6(e).

The filing of a reply brief is not mandatory, and in any event such a brief should be limited to a discussion of matters newly raised in the response. If the party making the motion does not wish to file a reply brief, it must so inform the Court and opposing counsel in writing by the deadline for filing the reply brief, as set forth above.

LR 7.2 . BRIEFS

Briefs shall be filed with the motion, except timely motions for extension of time or admission pro hac vice.

LR 16.1 . PRETRIAL CONFERENCES

(A) Rule 26(f) Conference . As soon as is practicable and in any event at least within sixty-nine (69) days of the appearance of a defendant, and within ninety-nine (99) days of service of the complaint, the parties shall confer as provided by Rule 26(f) of the Federal Rules of Civil Procedure and file a proposed discovery plan within five (5) days of the conference which shall serve as a guideline for the Court in issuing a scheduling order as provided by Rule 16(b) of the Federal Rules of Civil Procedure. If the parties choose to stipulate out of, or object to, the mandatory initial disclosure procedure required by Rule 26(a)(1) of the Federal Rules of Civil Procedure, they must so indicate in the discovery plan.

(B) Initial Pretrial Conference (IPC). An initial pretrial conference will only be held if specifically requested by the parties in the discovery plan. Unless otherwise directed by an Article III Judge, Magistrate Judges will preside over the pretrial conference and counsel for all parties must appear in person. Permission to appear by telephone will be determined by the judicial officer conducting the conference. The IPC is to be held no later than twelve (12) days after the filing of the discovery plan.

Unless otherwise directed by an Article III Judge, Magistrate Judges will issue the Rule 16(b) scheduling order and manage the pretrial activity of the case through direct involvement in the establishment, supervision and enforcement of the Rule 16(b) order and other applicable rules of procedure.

Matters which may be considered during the pretrial conference may include but not be limited to:

- ◆ discovery guidelines and deadlines;
- ◆ Rule 26 disclosures;
- ◆ responses to interrogatories and requests for admission;
- ◆ maintenance of discovery material;
- ◆ video depositions;
- ◆ protective orders;
- ◆ motions deadlines;
- ◆ motions hearings;
- ◆ response to motions;
- ◆ trial subpoenas;
- ◆ counsel's duties prior to trial;
- ◆ trial date;
- ◆ proposed jury instructions;
- ◆ exhibits; and
- ◆ mediation.

LR 16.2. MEDIATION OR ALTERNATIVE DISPUTE RESOLUTION (ADR).

(A) *Mandatory Mediated Settlement Conference.* All parties to civil actions are required to attend a Mediated Settlement Conference, unless otherwise ordered by the court. A mediated settlement conference is a pretrial, court-ordered (by local rule) conference of the parties to a civil action and their representatives conducted by a mediator. The procedure for the conference shall be as provided in Local Rule 16.3.

(B) *Cases Not Suitable For ADR.* These rules for mandatory ADR shall not apply to habeas corpus proceedings or other actions for extraordinary writs, appeals from rulings of administrative agencies, forfeitures of seized property, and bankruptcy appeals. The Judicial Officer may determine, either *sua sponte* or on application of any party, that any other case is not suitable for ADR, in which case no ADR procedure will be ordered.

LR 16.3 . RULES APPLICABLE TO MEDIATION OR
ALTERNATIVE DISPUTE RESOLUTION (ADR).

- ***Time for Proceeding.*** The Court favors the use of alternative dispute resolution (ADR), ordinarily in the form of a mediated settlement conference, for the efficient and orderly resolution of civil cases. Accordingly, the parties shall in the Certification and Report of Initial Attorneys' Conference indicate their estimation of the usefulness of ADR, their preferred method of ADR, and their opinion of the most advantageous time at which to commence ADR. If the parties fail to submit, or are unable to agree on, a proposed method of ADR, a Mediated Settlement Conference shall be selected as the default. The presiding Magistrate Judge or other Judicial Officer will in the Pretrial Order and Case Management Plan, or an Order for Alternative Dispute Resolution issued shortly thereafter, specify the selected ADR method and order it to commence on a schedule in accordance with the applicable responses given by counsel in the Certification and Report.

(B) *Rules for Proceeding.* Upon entry of an Order for Alternative Dispute Resolution, the case shall proceed as follows:

(1) If a Mediated Settlement Conference is ordered, the ADR proceeding shall be governed by and a mediator shall be selected in accordance with the *Rules Governing Mediated Settlement Conferences in Superior Court Civil Actions* promulgated from time to time by the North Carolina Supreme Court pursuant to N.C.G.S. §7A-38 (the "Mediation Rules"), and by the supplemental rules set forth herein.

(a) Wherever the Mediation Rules refer to "Senior Resident Superior Court Judge" and "Administrative Office of the Court," it shall mean "Judicial Officer" and "Clerk of the United States District Court," respectively.

(b) Rule 3(a) of the Mediation Rules is modified to permit the mediated settlement conference to be held in an appropriate facility anywhere in the division in which the case is pending.

(2) If an Alternative ADR Procedure is ordered, the ADR proceeding shall be governed by these Rules and by such other procedural rules submitted by the parties and approved by the Judicial Officer. The rules submitted by the parties shall include, in addition to rules regarding the actual proceeding, provisions setting a deadline for completion of the proceeding; the location for the

proceeding; pre-proceeding submissions; and the method for selection and compensation of a mediator, evaluator or other “neutral” to preside over the proceeding.

- (3)** Nothing in this Alternative Dispute Resolution Program shall be deemed to override the Federal Arbitration Act or any other provision of the United States Code.
- (4)** The Judicial Officer may, either *sua sponte* or on application of any party, permit exceptions or deviations from these rules.

(C) *Supplemental Rules for Mediated Settlement Conferences.* In addition to the Mediation Rules, the following rules shall also apply to mediated settlement conferences in the Western District:

- (1) No Record Made.** There shall be no record made of any proceedings under these rules.
- (2) Telephonic Attendance.** A party or person required to attend who resides more than 200 miles away by the usual highway route may appear at the mediated settlement conference through telephone communication with the Judicial Officer's prior consent.
- (3) Mediator's Report of Outcome.** The mediator's report required by the Mediation Rules shall be issued within seven (7) days of the conclusion of the Mediated Settlement Conference. The mediator may submit his or her report on a report form provided by the Clerk of Court, or using his or her own letterhead or individually developed mediation report form.

(D) *Judicial Settlement Conference.*

- (1) Mandatory Consideration.** The Judicial Officer to whom a case is assigned may, at any time, order the parties to participate in a settlement conference to be convened by the court. Any party may also file a request for a judicial settlement conference.
- (2) Mandatory Attendance by Representatives with Full Authority to Effect Settlement.** At the time of the conference, except with regard to government attorneys and federal agency parties, attorneys for all parties and either the party or a person with the full authority to settle all pending claims must be present. For purposes of this rule the "person with full authority to settle" shall not be the attorney. Government attorneys are required to bring as much binding authority as is feasible. A knowledgeable representative of the federal agency party with the authority to recommend any contemplated settlement is required to attend the conference, except for good cause shown prior to the date of conference.
- (3) Presiding Judicial Officer.** Any Judicial Officer of the district other than the Judicial Officer to whom the case is assigned for disposition may preside over a judicial settlement conference convened by the court.

**LR 26.1 . DISCOVERY MATERIAL NOT TO BE FILED UNLESS
ORDERED OR NEEDED**

Disclosures made pursuant to Fed. R. Civ. P. Rule 26, depositions upon oral examination and interrogatories, requests for documents, requests for admission, and answers and responses thereto are not to be filed unless on order of the court or for use in proceeding or in support of a motion or petition. Materials filed in support of a motion or petition shall be appropriately labeled and attached as an Appendix thereto and shall be limited to those portions of the material directly necessary to support the motion or petition. All such papers must be served on other counsel or parties entitled to service of papers filed with the clerk. The party taking a deposition or obtaining any material through discovery is responsible for its preservation and delivery to the Court if needed or so ordered.

LR 45.1. Production of Subpoenaed Material By Certain Non-Parties

(A) Custodians of Public Records: Where a subpoena commands any custodian of public records to appear for the sole purpose of producing certain records in their custody, the custodian subpoenaed may, in lieu of a personal appearance, tender to the court, by registered mail or personal delivery, certified copies of the records requested, on or before the date and time specified in the subpoena, together with a copy of the subpoena and an affidavit by the custodian as to the authentication of the record tendered or, if no such records are in their custody, an affidavit to that effect.

(B) Custodians of Medical Records: Where a subpoena commands the custodian of medical records to appear for the sole purpose of producing certain records in their custody, the custodian subpoenaed may, in lieu of a personal appearance, tender to the Clerk of court, by registered mail or by personal delivery, certified copies of the records requested, on or before the time specified in the subpoena, together with a copy of the subpoena and an affidavit by the custodian testifying to the identity and authenticity of the records, that they are true and correct copies, and as appropriate, that the records were made and kept in the regular course of business at or near the time of the acts, conditions, or events recorded, and that they were made by persons having knowledge of the information set forth; or if no such records are in their custody, an affidavit to that effect. When the copies of medical records are personally delivered, a receipt shall be obtained from the person receiving the records.

(C) Admissibility: Any original or certified copy of any public or medical records, or affidavit, delivered according to the provisions of this rule shall not be held inadmissible in any action or proceeding on the grounds that it lacks certification, identification, or authentication, and it shall be received as evidence if otherwise admissible.

(D) Protection of Privacy: The copies of public or medical records so tendered shall not be open to inspection or copying by any persons, except to the parties to the case and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communications under law to be disclosed.

Unless the underlying subpoena for medical records is accompanied by a written consent of the patient, the materials submitted to the court in response thereto shall not be disclosed to anyone, including the parties and their attorneys, unless upon judicial finding that disclosure is necessary to proper administration of justice.

(E) Duties of the Clerk of this Court:

The Clerk of this court will sign or mark as “Received” a receipt if such is tendered by the subpoenaed party. The Clerk of this court has no duty to generate a receipt or mail a receipt back to the responding party unless a receipt and self addressed stamped envelope is provided.

The Clerk of this court will not file, scan, or otherwise make the proffer part of the official record unless instructed to do so by a judge of the court.

Upon presentation to the court, the Clerk of court shall stamp the first page or cover sheet of any such material as “Received”, and place such materials in an official court envelope or other container indicating that the materials are sealed. The Clerk of court shall bring such filing to the court’s attention at an appropriate time in the proceedings.

Unless such materials are made part of the record, they shall be destroyed by the Clerk of this court within a reasonable time after the case is closed and appeals exhausted. Originals may be returned to the custodian if arrangements are made with the Clerk of this court at the time of tender.

PURPOSE

1. Privileges, such as doctor-patient, are created at common law; therefore, the court has attempted to mirror the provisions of state law which allow keepers of public records and medical records to tender the subpoenaed materials to the court. Such procedure saves the court time in avoiding routine motions to quash for technical missteps and results in substantial savings to public agencies and health care providers, many of which are not-for-profit agencies. The intent of the proposed rule is to streamline federal litigation for practitioners who regularly appear in both federal and state courts by making the rules substantially consistent.

2. LR 45.1 is narrower than its state counterpart in that it makes clear that only non-parties may avail themselves of such provision. (The North Carolina case law reveals that Rule 45(c) was frequently mistaken as a discovery device). LR 45.1 is also broader than its state counterpart in that it extends the provision to all health- care providers rather than just hospitals. In addition, LR 45.1 adds detailed procedures for the tender and disposal of such materials inasmuch as neither

discovery nor evidence is accepted or maintained by the court

47.1. JURORS

Ordinarily, in the interest of time, the court will conduct the examination of prospective jurors, but may permit counsel to do so. If the court conducts the examination, counsel may suggest additional questions.

When jurors for a term of court are drawn, members of the bar of this court, upon request, shall be furnished with a copy of the list; and if questionnaires are used, responses will be made available to attorneys. The list shall include the address for each juror. However, no juror shall be contacted, either directly or through any member of his immediate family, in an effort to secure information concerning his background.

LR 47.2 CONTACT WITH JURORS

No attorney or party to an action shall personally or through their designees, directly or indirectly, interview, examine or question any juror, relative, friend or associate thereof during the pendency of the trial or with respect to the deliberations or verdict of the jury in any action, except on leave of the presiding judge upon good cause shown.

LR 54.1 . TAXATION OF COSTS OTHER THAN ATTORNEYS' FEES

(A) *Filing Bill of Costs.*

- (1) A prevailing party may request the Clerk to tax allowable costs, other than Attorneys' fees, in a civil action as a part of a judgment or decree by filing a bill of costs, on a form available in the clerk's office, within 30 days:
 - (i) after the expiration of time allowed for appeal of a final judgment or decree; or
 - (ii) after receipt by the clerk of an order terminating the action on appeal.
- (2) The original of the bill of costs shall be filed with the clerk, with copies served on adverse parties.
- (3) The failure of a prevailing party to timely file a bill of costs shall constitute a waiver of any claim for costs.

(B) *Objections to Bill of Costs.*

- (1) If an adverse party objects to the bill of costs or any item claimed by a prevailing party, that party must state its objection in a motion for disallowance with a supporting brief within ten (10) days after the filing of the bill of costs. Within five (5) days thereafter, the prevailing party may file a response and brief. Unless a hearing is ordered by the clerk, a ruling will be made by the Clerk on the record.
- (2) A party may request review of the Clerk's ruling by filing a motion within five (5) days after the action of the Clerk. The court's review of the Clerk's action will be made on the existing record unless otherwise ordered.

(C) *Taxable Costs.*

- (1) Items normally taxed include, without limitation:
 - (i) those items specifically listed on the bill of costs form. The costs incident to the taking of depositions (when allowable as necessarily obtained for use in the litigation) normally include only the reporter's attendance fee and charge for the original transcript of the deposition;
 - (ii) premiums on required bonds;
 - (iii) actual mileage, subsistence, and attendance allowances for necessary witnesses at actual cost, but not to exceed the applicable statutory rates, whether they reside in or out of this district;
 - (iv) one copy of the trial transcript for each party represented by separate counsel.
- (2) Items normally not taxed include, without limitation:

- (i) multiple copies of depositions;
- (ii) daily copy of trial transcripts, unless prior court approval has been obtained.

(D) *Costs in Settlements.* The court will not tax costs in any action terminated by compromise or settlement. Settlement agreements must resolve any issue relating to costs. In the absence of specific agreement, each party will bear its own costs.

(E) *Payment of Costs.* Costs are to be paid directly to the party entitled to reimbursement.

LR 67.1 . REGISTRY FUNDS.

(A) *Deposit with the Treasury.* Unless otherwise ordered by the court, the clerk shall deposit registry funds in the Treasury of the United States and the funds shall accrue no interest.

(B) *Investment In Income-Earning Account.* Upon motion or upon consent of the parties, the court may order the clerk to invest certain registry funds in an income-earning account which will be the Court Registry Investment System. The order may issue upon a consent request of the parties or upon motion by an interested party, in accordance with the following procedures:

(1) A consent request must demonstrate the assent of all interested and potentially interested parties. The agreement must demonstrate that the investment will be in compliance with applicable provisions of the law regulating the investment of public monies, provide for proper disposition of future earnings, and set out with particularity the following information:

- (i)** the form of deposit;
- (ii)** the amount to be invested;
- (iii)** the length of time the money should be invested, whether it should automatically be reinvested, etc., keeping in mind that some investments include a penalty for early withdrawal;
- (iv)** the name and address of the designated beneficiary or beneficiaries;
- (v)** such other information that may be deemed appropriate under the facts and circumstances of the particular case. The consent request shall be accompanied by a proposed order directing the clerk to proceed with the investment.

(2) A motion may be filed *ex parte* by an interested party, and the court may enter an order in advance of the filing of any response thereto. The motion must set forth the showings required in subsection (b)(1) concerning the investment and must include a proposed order. The motion must be served on all known interested parties who do not join therein. If an order is entered prior to the filing of a response in opposition, the motion will be reconsidered by the court. The court may determine the motion upon the record or may, in its discretion, call for a hearing on the matter.

(3) Counsel or parties obtaining an order directing investment in an income-earning account shall personally serve the clerk or the chief deputy and the financial deputy. Counsel or parties have the responsibility, fifteen (15) days after service of the order on the clerk, to verify that the funds have been invested as ordered. Failure to personally serve the

clerk as specified in this section or failure to verify that the funds were actually invested as provided in the order shall release the clerk and deputy clerks from any liability for the loss of interest which could have been earned on the funds.

- (4)** A service fee may be charged by the clerk for the investment of registry funds.
- (5)** Interest on Registry Funds - "Settlement Funds". Funds invested with the court for the purpose of settlement are subject to additional rules under 26 U.S.C. §468B. To comply with the requirements found in Section 468B, the order required in subsection(b) must also contain the following information:
 - (i)** the deposit is identified as a settlement fund;
 - (ii)** liability is resolved by the settlement agreement as described in 26 U.S.C. §468B or 26 C.F.R. §1.468B-1(c);
 - (iii)** designation of a person outside the court as the administrator responsible for obtaining the employer identification number for the fund, filing all fiduciary tax returns, and paying any tax.

LR 72.1 . AUTHORITY OF MAGISTRATE JUDGES IN CIVIL MATTERS.

(A) *Magistrate Judges are Authorized and Designated to Exercise the Following Functions and Duties Regarding Civil Actions in the Western District.*

- (1)** To perform the duties prescribed in 28 U.S.C. §636(a).
- (2)** To hear and decide non-dispositive procedural or discovery motions and other pretrial matters, as provided by 28 U.S.C. §636(b)(1)(A).
- (3)** To hear any dispositive motions involving cases in which the parties have not consented to jurisdiction of the Magistrate Judge, and thereafter to submit to the District Court proposed findings of fact and recommendations for disposition of such motions, as provided by 28 U.S.C. §636(b)(1)(B).
- (4)** To make a final determination upon any dispositive motion in a case wherein the parties have consented to the jurisdiction of the Magistrate Judge, subject to right of appeal to the United States Court of Appeals for the Fourth Circuit.
- (5)** To serve as a Special Master in appropriate civil cases in accordance with 28 U.S.C. §636(b)(2) and Rule 53 of the Federal Rules of Civil Procedure.
- (6)** Upon the consent of all parties, to conduct jury voir dire in civil cases when designated by the District Court to do so on a case-by-case basis.
- (7)** To accept petit jury verdicts in civil cases in the absence of a District Court Judge.
- (8)** Upon the consent of all parties to conduct the trial and order entry of judgment, as authorized by 28 U.S.C. §636(c).
- (9)** To issue orders or warrants authorizing acts necessary in the performance of the duties of administrative and regulatory agencies and departments of the United States Government pursuant to 28 U.S.C. §636(b)(3).
- (10)** To conduct proceedings of the court under the Federal Debt Collection Procedures Act, consistent with the Constitution and the laws of the United States as authorized by 28 U.S.C. §3008 (1990).
- (11)** To perform any additional duties that are not inconsistent with the Constitution or the laws of the United States, as shall be assigned or delegated by the District Court.

LR 73.1. TRIAL BY CONSENT BEFORE A MAGISTRATE JUDGE.

(A) *Consent to the Exercise of Civil Trial Jurisdiction.* The consent of a party to the exercise of civil trial jurisdiction by a U.S. Magistrate Judge authorized in 28 U.S.C. §636 (c) (1) shall be communicated to the clerk by letter, or by a form available in the clerk's office, signed by the party or the party's attorney.

(1) The Plaintiff's consent/denial form shall be mailed to or filed with the Clerk on or before the date that plaintiff first seeks service of the complaint upon the defendant(s) in any manner provided by Rule 4, Fed.R.Civ.Proc.

(2) The plaintiff shall serve a blank copy of the consent/denial form on all defendants with the complaint.

(3) The defendant(s) shall file an executed consent/denial form with their first responsive pleading. For purposes of this rule, any pleading filed by the defendant, including a motion to dismiss, shall be deemed its first responsive pleading.

(B) *Failure to File Executed Consent/Denial Form.* In the event any party fails to file an executed consent form, the Magistrate Judge initially assigned to the case, unless otherwise ordered by the court, shall continue to be responsible for the pretrial proceedings of the case and will advise the parties during the pretrial conference of his availability to conduct the entire case up through trial. At the conference the parties will be given a final opportunity to file the required consent/denial form.

LR 77.1 . ORDERS AND JUDGMENTS WHICH THE CLERK MAY GRANT.

Pursuant to the provisions of Fed. R. Civ. P. Rule 77(c), the Clerk of Court and an authorized deputy clerk at Asheville, Charlotte and Statesville are authorized to grant and enter the following orders and judgments without further direction by the court, but any such action may be suspended, altered or rescinded by the court for good cause shown:

- (1)** Consent orders for the substitution of attorneys only after determining such substitution will not delay a scheduled hearing or trial.
- (2)** Consent orders extending for not more than 20 days the time within which to answer or otherwise plead, answer interrogatories submitted under Fed. R. Civ. P. Rule 33. Care will be taken not to extend the time for so long as to delay unreasonably the trial. Matters in bankruptcy and those matters set forth in Fed. R. Civ. P. Rule 6(b), are not included in this authorization. Where convenience and necessity are thought to require it; e.g., unavailability of a judge, and except where an extension may delay a scheduled trial or hearing, the clerk or deputy clerk(s) in the division in which the proceeding is pending is/are authorized to extend for not more than ten (10) days the time within which to answer or otherwise plead, answer interrogatories submitted under Rule 33, or requests for admission as provided for in Rule 36. If the other party is aggrieved, he may immediately appeal the action of the clerk's office to one of the District Judges.
- (3)** Consent orders extending for not more than thirty (30) days the time to file the record on appeal and to docket the appeal in the appellate court, except in criminal cases.
- (4)** Consent orders dismissing an action, except in bankruptcy proceedings and in causes to which Fed. R. Civ. P. Rule 23(c) and Rule 66 apply.
- (5)** Judgments of default as provided for in Rule 55(a) and 55(b)(1), Federal Rules of Civil Procedure.
- (6)** Orders canceling liability on bonds.
- (7)** Judgments authorized by Fed. R. Civ. P. Rule 58.
- (8)** Orders directing inmates to file sworn statements showing exhaustion of all administrative remedies through the North Carolina Department of Corrections pursuant to 42 U.S.C. §1997(e).
- (9)** Orders directing inmates and the correctional facility in which the inmate is housed to file a copy of the inmate's trust fund account statement (or institutional

equivalent) pursuant to 28 U.S.C. §1915.

- (10)** Orders waiving the filing fee or directing a partial filing fee be paid by the inmate pursuant to Section 804 of the Prison Litigation Reform Act of 1995. These orders may also include directing the correctional facility at which the inmate is incarcerated to deduct monthly payments from the inmate's trust fund account and forward said payment to the clerk.

**LR 79.1. CUSTODY AND DISPOSITION OF EVIDENCE, MODELS, EXHIBITS
AND DEPOSITIONS.**

(A) *Custody with the Clerk.* Unless otherwise directed by the court, all trial exhibits admitted into evidence in criminal and civil actions shall be placed in the custody of the clerk, except as provided in Section (B) below.

(B) *Custody with the Offering Party.* All exhibits not suitable for filing and transmission to the court of appeals as a part of a record on appeal shall be retained in the custody of the party offering them, subject to the orders of the court. Such exhibits shall include, but not be limited to, the following types of bulky or sensitive exhibits: narcotics and other controlled substances, firearms, ammunition, explosive devices, jewelry, liquor, poisonous or dangerous chemicals, money or articles of high monetary value, counterfeit money, and documents or physical exhibits of unusual bulk or weight.

At the conclusion of a trial or proceedings, the party offering such exhibits shall retain custody of them and be responsible to the court for preserving them in their condition as of the time admitted until any appeal is resolved or the time for appeal has expired. The party retaining custody shall make such exhibits available to opposing counsel for use in preparation of an appeal and be responsible for their safe transmission to the appellate court, if required.

(C) *Disposition of Exhibits, Sealed Documents, and Filed Depositions by Clerk.* Any exhibit, sealed document, or filed deposition in the clerk's custody more than 30 days after the time for appeal, if any, has expired or an appeal has been decided and mandate received, may be returned to the parties or destroyed by the clerk. Complaints, answers, motions, responses and replies, whether sealed or not, must be forwarded to the General Services Administration for permanent storage. The confidentiality of sealed documents cannot be assured after the case file is transferred to the General Services Administration for records holding.

(D) *Depositions.* Depositions read into the court record are considered exhibits for which the parties shall be responsible as provided in Section (B) above. Depositions on file admitted into evidence but not read into the record shall be retained in the clerk's custody and disposed of as authorized in Section (C) of this rule.

LR 83.1. ATTORNEY ADMISSIONS

(A) *Eligibility and Admission.* Any lawyer who is a member in good standing of the North Carolina State Bar is eligible for admission to the bar of this court, which admission shall be granted as a matter of course upon the payment of a fee in the amount of \$100.00 and upon taking the prescribed oath in open court which reads as follows:

I do solemnly swear that I am a member in good standing of the North Carolina State Bar entitled to practice law in the courts of general jurisdiction of the State of North Carolina, and I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic, and bear true faith and allegiance to the same and that I will demean myself as an attorney and officer of this court in accordance with the Canons of Ethics of the North Carolina State Bar and American Bar Association, and according to law.

I take this obligation freely without any mental reservation or purpose of evasion, so help me God.

Attorneys already admitted to the bars of either the United States District Court for the Eastern District of North Carolina or the United States District Court for the Middle District of North Carolina may be admitted to the bar of this court upon tendering the application and fees required by this rule, together with a copy of the order admitting the attorney to practice in either of the aforementioned districts. It shall be necessary for a member in good standing of the North Carolina State Bar to be formally admitted in this district in advance of making an appearance and filing papers; such attorney may be admitted *nunc pro tunc* at trial time.

(B) *Special Admissions.* Litigants in civil and criminal actions, except counsel representing governmental agencies and parties appearing pro se, must be represented by at least one member of the bar of this court or by an attorney admitted to practice by this court pursuant to this section. Any lawyer who is a member in good standing of the Bar of the Supreme Court of the United States or the Bar of the Supreme Court of any state in the United States may, in the discretion of the judges of this court, be permitted to appear in a particular case. If such permission is granted, and if a member of the bar of this court is not associated, said attorney and his client shall be deemed to have consented that service of all pleadings and notices may be made upon a deputy clerk in the

appropriate division of this court as process agent. The court encourages such out-of-state attorneys to associate a member of the bar of this court in *all* cases, but will not require such association where the amount in controversy or the importance of the case does not appear to justify double employment of counsel. Special admissions will be the exception and not the rule, and no out-of-state counsel will be permitted to practice frequently or regularly in this court without the association of local counsel.

Where justice requires, the authorized deputy clerks at Asheville, Statesville and Charlotte may permit the filing of papers at the request of out-of-state counsel; provided, however, the further participation of out-of-state counsel shall be governed as herein above provided.

All counsel, except those representing governmental agencies, must pay a fee in the amount of \$100.00 for each special admission or whenever Pro Hac Vice admission is granted.

(C) *Withdrawal of Counsel.* Counsel seeking to withdraw shall file written consent of their client to their withdrawal which shall become effective on determination that a scheduled hearing or trial will not be delayed and upon court approval. Over objection of the client, withdrawal may still be obtained upon good cause shown if it is determined that a scheduled hearing or trial will not be delayed.

**LR 83.2 . NO PHOTOGRAPHING, TELEVISIONING, OR BROADCASTING
OF COURT PROCEEDINGS.**

The taking of photographs in the courtroom, or in the corridors immediately adjacent thereto, during the progress of judicial proceedings, or during any recess, and the transmitting or sound recording of such proceedings for broadcasting by radio or television, shall not be permitted. Proceedings other than judicial proceedings designed and conducted as ceremonies, such as administering oaths of office to appointed officials of the court, presentation of portraits, and similar ceremonial occasions, may be photographed in, broadcasted or televised from the courtroom, with the permission and under the supervision of the court.

II. LOCAL RULES OF CRIMINAL PROCEDURE

CITE THESE RULES AS:

LOCAL CRIMINAL RULE _____

"LCrR _____"

LCrR 11.1. ELECTRONIC RECORDING OF RULE 11 INQUIRY

When an appropriate inquiry under Fed. R. Civ. P. Rule 11 is conducted by a United States Magistrate Judge, the electronic recording of the proceeding shall constitute the verbatim record of the proceeding.

LCrR 20.1 . TRANSFERS FOR PLEA AND SENTENCE

(A) Upon transfer of the pleadings from the transferor district, the clerk in the appropriate divisional office shall assign a criminal case number and randomly assign a District Judge.

(B) Pending Related Case(s): If a related case is pending before another District Judge, the U.S. Attorney shall move for consolidation of both actions before the judge assigned to the lowest case number and submit a proposed order for the court. The motion for consolidation may be filed in either of the cases with proper notice of motion in the related case. Upon execution of the order, the clerk shall reassign the later case to the judge presiding on the lowest case number, unless otherwise set forth in the order.

LCrR 23.1. FAIR TRIAL AND FREE PRESS IN CRIMINAL CASES

(A) It is the duty of the lawyer, in connection with pending or imminent criminal litigation with which he is associated, not to release or authorize the release of information or opinion for dissemination by any means of public communication, if there is a reasonable likelihood that such dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice.

With respect to a grand jury or other pending investigation of any criminal matter, a lawyer participating in the investigation shall refrain from making any extrajudicial statement for dissemination by any means of public communication that goes beyond the public record or that is not necessary to inform the public that the investigation is underway, to describe the general scope of the investigation, to obtain assistance in the apprehension of a suspect, to warn the public of any dangers, or otherwise to aid in the investigation.

From the time of arrest, issuance of an arrest warrant, or the filing of a complaint, information, or indictment in any criminal matter until the commencement of trial or disposition without trial, a lawyer associated with the prosecution or defense shall not release or authorize the release of any extrajudicial statement, for dissemination by any means of public communication, relating to that matter and concerning:

- (1)** The prior criminal record (including arrests, indictments, or other charges of crime), or the character or reputation of the accused, except that the lawyer may make a factual statement of the accused's name, age, residence, occupation, and family status; and if the accused has not been apprehended, a lawyer associated with the prosecution may release any information necessary to aid in his apprehension or to warn the public of any dangers he may present;
- (2)** The existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make any statement;
- (3)** The performance of any examination or tests or the accused's refusal or failure to submit to an examination or test;
- (4)** The identity, testimony, or credibility of prospective witnesses, except that the lawyer may announce the identity of the victim if the announcement is not otherwise prohibited by law;

- (5) The possibility of a plea of guilty to the offense charged or a lesser offense;
- (6) Any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case.

The foregoing shall not be construed to preclude the lawyer during this period, in the proper discharge of his official or professional obligations, from announcing the fact and circumstances of arrest (including time and place of arrest, resistance, pursuit, and use of weapons), the identity of the investigating and arresting officer or agency, and the length of the investigation; from making an announcement at the time of seizure of any physical evidence other than a confession, admission or statement, which is limited to a description of the evidence seized; from disclosing the nature, substance, or text of the charge, including a brief description of the offense charged; from quoting or referring without comment to public records of the court in the case; from requesting assistance in obtaining evidence; or from announcing without further comment that the accused denies the charges made against him.

During the trial of any criminal matter, including the period of selection of the jury, no lawyer associated with the prosecution or defense shall give or authorize any extrajudicial statement or interview relating to the trial or the parties or issues in the trial, for dissemination by any means of public communication, except that the lawyer may quote from or refer without comment to public records of the court in the case.

After completion of a trial or disposition without trial of any criminal matter, and prior to the imposition of sentence, a lawyer associated with the prosecution or defense shall refrain from making or authorizing any extrajudicial statement, for dissemination by any means of public communication, if there is a reasonable likelihood that such dissemination will affect the imposition of sentence.

Nothing in this rule is intended to preclude the formulation or application of more restrictive rules relating to the release of information about juvenile or other offenders, to preclude the holding of hearings or the lawful issuance of reports by legislative, administrative, or investigative bodies, or to preclude any lawyer from replying to charges of misconduct that are publicly made against him.

(B) All courthouse personnel, including, among others, marshals, deputy marshals, court clerks, bailiffs, and court reporters, shall not disclose to any person, without authorization by the court, information concerning arguments and hearings in criminal cases held in chambers or otherwise outside the presence of the public, or disclose any other information relating to a pending criminal case that is not part of the public records of this court.

(C) In a widely publicized or sensational case, the court, on motion of either party or on its own motion, may issue a special order governing such matters as extrajudicial statements by parties and witnesses likely to interfere with the accused's right to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news media representatives, the management and sequestration of jurors and witnesses, and any other matters which the court may deem appropriate for inclusion in such an order.

LCrR 32.1. DISCLOSURE OF PRESENTENCE OR PROBATION RECORDS

The probation officer's recommendation on the sentence is a confidential record and shall not be disclosed, except pursuant to an order of the court. No confidential records of this court maintained by the probation office shall be sought by an applicant except by written petition to this court establishing with particularity the need for specific information in the records.

LCrR 46.1. RELEASE FROM CUSTODY - RECOGNIZANCE

Release on personal recognizance shall be granted by United States Judges in accordance with the provisions of the Federal Rules of Criminal Procedure. Recognizance shall be left to the discretion of the judge within the requirements of the rules.

LCrR 55.1. SEALED RECORDS

(A) For any criminal case which the government desires to be sealed, the charging document must be accompanied by an ex parte motion and order requesting that all or a portion of the documents in the criminal case be sealed at the time of filing a complaint or information, or on the return of a grand jury indictment. The clerk shall seal the case or documents as specified in the court's order. The case shall be listed on the clerk's index as United States of America vs. Sealed Defendant. Unless otherwise ordered by the court, upon referral, the Magistrate Judge on a showing of good cause by the United States Attorney or a defendant, the case or documents shall be unsealed as follows:

- (1) Where the case involves a single defendant, at the time of the defendant's initial appearance before the Magistrate Judge;
- (2) Where the case involves more than one defendant, at the time the last defendant appears in this district before the Magistrate Judge, unless written motion to unseal is submitted earlier with a proposed order to be executed by the court.

(B) **Pending Cases:** A pending case may be sealed at any time upon motion of either party and execution by the court of a written order. Unless otherwise specified in the order, neither the clerk's case index nor the existing case docket shall be modified. The motion and proposed order presented to the court should specifically identify that portion of the record which is to be sealed, such as:

- (1) the case file;
- (2) the case docket;
- (3) a specific pleading; or
- (4) only the identity of new defendants brought into the case.

(C) **Documents:** Documents ordered sealed by the court or otherwise required to be sealed by statute shall be marked as such within the document caption and submitted together with the judge's copy prepared in the same manner. If the document is sealed pursuant to a prior order of the court, the pleading caption shall include a notation that the

document is being filed under court seal and include the order's entry date.

No document shall be designated by any party as "filed under seal" or "confidential" unless:

- (1) it is accompanied by an order sealing the document;
- (2) it is being filed in a case that the court has ordered sealed; or
- (3) it contains material that is the subject of a protective order entered by the court.

(D) Case Closing: After final disposition of any criminal case where the file or documents under court seal have not previously been unsealed by court order, unless otherwise ordered by the court, the United States Attorney shall be responsible for filing a motion unsealing the matter with a proposed order for the court's execution.

(E) Access to Sealed Documents: Unless otherwise ordered by the court, access to documents and cases under court seal shall be provided by the clerk only pursuant to court order. Unless otherwise ordered by the court, the clerk shall make no copies of sealed files or documents.

LCrR 57.1 . AUTHORITY OF MAGISTRATE JUDGES IN CRIMINAL MATTERS

(A) *Magistrate Judges are Authorized and Designated to Exercise the Following Functions and Duties Regarding Criminal Actions in the Western District.*

- (1) To perform the duties prescribed in 28 U.S.C. §636(a).
- (2) To try and to sentence, if found guilty, persons charged with petty offenses and misdemeanors, and to direct the probation office to prepare a presentence report in any such case, as provided by 18 U.S.C. §3401.
- (3) To hear and decide non-dispositive procedural or discovery motions and other pretrial matters, as provided by 28 U.S.C. §636(b)(1)(A).
- (4) To hear any dispositive motions involving cases in which the parties have not consented to jurisdiction of the Magistrate Judge and thereafter to submit to the district court proposed findings of fact and recommendations for disposition of such motions, as provided by 28U.S.C.§636(b)(1)(B).
- (5) To issue preliminary orders and conduct necessary evidentiary hearings or other appropriate proceedings in connection with cases filed pursuant to 28 U.S.C. §2254 and §2255, and to submit to the district court a report containing proposed findings of fact and recommendations for disposition of such cases (unless consent is obtained for final disposition).
- (6) To accept returns of true bills of indictment from the Grand Jury.
- (7) To issue orders or warrants authorizing acts necessary in the performance of the duties of administrative and regulatory agencies and departments of the United States Government pursuant to 28 U.S.C. §636(b)(3).
- (8) To perform any additional duties that are not inconsistent with the Constitution or the laws of the United States, as shall be assigned or delegated by the district court.

LCrR 57.2 . PENDING CASES INVOLVING SAME DEFENDANT

Where there are two or more cases pending against the same defendant before more than one assigned judge, the United States Attorney or the defendant may move by written motion and proposed order to have any or all of the cases reassigned to the presiding judge with the lowest case number. This motion may be filed before any of the assigned judges with notice of the motion to the other assigned judge(s). Time is of the essence with this motion.

LCrR 58.1. FORFEITURE OF COLLATERAL SECURITY IN LIEU OF APPEARANCE

Pursuant to Rule 58, Federal Rules of Criminal Procedure, and Title 28, United States Code, Section 636(b)(3), and upon motion made by the United States of America in the interest of justice, good court administration, and sound law enforcement, the Collateral Forfeiture Schedule is hereby amended by adding a collateral forfeiture in the amount of \$250 for first offense simple possession of marijuana having a weight not exceeding 1/4 ounce or 7.78 grams occurring in the national parks or forests within the Western District of North Carolina. Such collateral may be made mandatory if, in the opinion of the arresting or citing officer, the offense was aggravated.

Such revision is reflected in the amended schedules annexed hereby and hereby incorporated into the overall Collateral Forfeiture Schedule.

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

RE: REVISION, PROMULGATION, AND)	Misc No.: <u>3:03MC53</u>
CONSOLIDATION OF COLLATERAL)	
FORFEITURES AND MANDATORY)	
APPEARANCES FOR PETTY AND)	
CERTAIN OTHER MISDEMEANOR OFFENSES)	ORDER
OCCURRING WITHIN THE SPECIAL)	
TERRITORIAL JURISDICTION)	
OF THE UNITED STATES WITHIN THE)	
WESTERN DISTRICT OF NORTH CAROLINA.)	
<hr style="width:60%; margin-left:0"/>		

THIS MATTER is before the court upon motion of the United States Attorney for the Western District of North Carolina, which was made in accordance with Rule 58(d)(1), Federal Rules of Criminal Procedure, for revision, promulgation, and consolidation of collateral forfeiture schedules.

For cause, the United States has shown that a number of collateral forfeiture schedules are presently in place for federal law enforcement agencies within the Western District of North Carolina. Further, the United States has shown that with the addition of all Tennessee Valley Authority property to the jurisdiction of this court, there is a need for a consistent schedule, inasmuch as the TVA shares boundaries with other federal agencies and will be assisting other agencies in the enforcement of laws and protection of the public through shared jurisdiction agreements.

Finding that the proposed amendments are in the best interest of the public and the sound and consistent administration of justice, the court enters the following Order.

ORDER

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that the annexed **UNIFIED COLLATERAL FORFEITURE SCHEDULE** is **ADOPTED** for use in all petty and misdemeanor offenses committed within the special maritime and territorial jurisdiction of the United States within the Western District of North Carolina. All previous schedules are hereby superseded; however, all tickets or other criminal process issued before this Order may proceed to conclusion under the previous schedules.

The Clerk of this court is respectfully instructed to send a copy of this Order and annexed Unified Collateral Forfeiture Schedule to the United States Attorney for the Western District of North Carolina for further dissemination to the agencies he represents.

This 9th day of March, 2003.

**GRAHAM C. MULLEN
CHIEF UNITED STATES DISTRICT JUDGE**

**RICHARD L. VOORHEES
UNITED STATES DISTRICT JUDGE**

_____**LACY H. THORNBURG
UNITED STATES DISTRICT JUDGE**

UNIFIED COLLATERAL FORFEITURE SCHEDULE

WESTERN DISTRICT OF NORTH CAROLINA

(1) Natural Resource Violations

(1) Natural, Cultural, and Archaeological Resources Violations

(All major offenses are mandatory)

(1) Unlawful Taking of Natural Resource	\$100
(2) Unlawful Possession of Natural Resource	\$100
(3) Unlawful Disturbance of Natural Resource	\$50
(4) Unlawful Foraging By Any Means	\$50
(5) Unlawful Possession of Tools Used for Removing or Foraging for Natural, Cultural, or Archaeological Resources (i.e., a metal detector in or around an Archaeological site; shovels, sacks, 'ginseng sticks' In Park or Forest)	\$100
(6) Damaging or Removing a Natural Feature	\$100
(7) Damaging Endangered or Sensitive Plant	\$150
(8) Removing Endangered or Sensitive Plant	Mandatory
(9) Removing Historic or Cultural Artifact or Resource	Mandatory
(10) Use or Possession of Motorized Vehicle, Craft, or Equipment in Wilderness Area	\$150
(11) Use or Possession of Bicycle, Hang Glider, Wheel Device for Transport of Water Craft, or any Wheel Device In Wilderness Area	\$75
(12) Landing Aircraft or Dropping Material Into Wilderness Area/National Park lands/Project Waters Or Lands	Mandatory
(13) Landing Aircraft/Using Motor Boat Where Prohibited	Mandatory
(14) Possess or Use Undesignated Motor or Motorized Equipment Where Prohibited	\$100
(15) Violation of Closure Order	\$100
(16) Introducing Exotic Plants, Fish, or Wildlife Where Prohibited	Mandatory

(2) Trail/Path Usage Violations

(1) Unlawful Use of Trail With a Motorized Vehicle	\$150
(2) Unlawful Use of Motorized Vehicle in Off Road Area	\$150
(3) Use of Vehicle Too Wide for Trail	\$50
(4) Unlawful Use of A Trail By Horse or Non-Motorized Vehicle	\$75
(5) Shortcutting a Trail	\$75
(6) Unlawful Use of Foot	\$50
(7) Unlawful Use of Wagon, Cart, Sled	\$75

(3) Wildlife Violations

Hunting

(1) Hunting During Closed Season	
(1) Minor	\$150
(2) Major	Mandatory
(2) Hunting in Closed Area	
(a) Minor	\$150
(2) Major	Mandatory
(c) Hunting in National Park	Mandatory
(d) Taking Big Game w/o License	
(1) Minor	\$150
(2) Major	Mandatory
5.Taking Antlerless Deer Out of Season	
(1) Minor	\$150
(b) Major	Mandatory
(F) Hunting in Bear Sanctuary	Mandatory
(G) Hunting in Safety Area	
(A) Minor	\$150
(B) Major	Mandatory
(H) Taking Game at Improper Time of Day	
(A) Minor	\$150
(B) Major	Mandatory
(i) Hunting at Improper Time of Day	\$100

(j) Hunting Without Valid License	\$100
(k) Hunting With Unlawful Equip. (caliber, device, trap, etc.)	\$100
(l) Hunting With Improper Equip. (blaze orange, shell cap., etc.)	\$50
(m) Exceeding Bag Limit (Small game)	\$50 minimum
-or-	
\$25 per animal	
(Whichever is greater)	
(n) Exceeding Bag Limit (Big Game)	Mandatory
(o) Commercial Hunting	Mandatory
(p) Commercial Guiding Without Permit	\$100
(q) Spotlighting	
(a) With weapon in possession and at the ready	Mandatory
(b) With weapon accessible	\$150
(c) No weapon, but disturbing wildlife	\$75
(r) Unlawful Transportation, Possession, Storage, or Disposal of Wildlife or Wildlife Parts	
(a) Lawfully Taken	\$75
(b) Unlawfully Taken	Mandatory
(s) Unlawful/Out of Season Possession of Firearm, Bow, Crossbow, Trap, or Other Hunting Device	\$100
(t) Failure to Report or Tag Big Game	\$100
(u) Unlawful Baiting	Mandatory
(v) Violation of Any Other Regulation, Limitation, Closure, Rule	\$50

Fishing

(1) Fishing During Closed Season	\$100
(2) Fishing in Closed Area	\$100
(3) Fishing at Improper Time of Day	\$50
(4) Fishing Without a Valid License	\$100
(5) Fishing With Improper Equipment (Lure, hook, bait, net, device, etc.)	\$50
(6) Possession of Improper Equipment (Lure, hook, bait, net, device, etc.)	\$50
(7) Fishing from Improper Place (Pier, dam, dock, beach, etc.)	\$50

(8) Exceeding Creel Limit	\$50 minimum
-or-	
\$25 per fish,	
Whichever is	
greater	
(9) Exceeding Creel Limit By Means	\$100 minimum
of Deception (giving fish to other	-or-
fishermen, hiding fish, etc.)	\$50 per fish
whichever is	
greater	
(10) Keeping Undersized Fish	\$50 minimum
-or-	
\$25 per fish	
whichever is	
greater	
(11) Unlawfully Feeding or Scattering of Bait to Catch Fish	\$50
(12) Unlawful Use of an Explosive, Electrical Device,	Mandatory
or Chemical to Catch Fish	
(13) Introduction of Exotic Fish Species Into Public Waters	Mandatory
(14) Taking of a Protected Fish	\$50 per fish
(15) Night Fishing	\$50
(16) Violation of Any Other Regulation,	\$50
Limitation, Closure, or Posted Rule	

Unlawful Interaction With Wildlife /Wildlife Projects

(a) Feeding Bears	\$100
(b) Feeding Other Animals	\$75
(c) Intentionally Disturbing Animals	\$75
(d) Allowing a Domestic Animal to Chase	\$75
or Molest Wildlife	
(e) Disturbing the Nesting Area of an Endangered Species	\$100
(f) Disturbing a Wildlife Project	\$50
(g) Unlawful Taking of Specimens	\$50
(h) Taking Specimens Contrary to Permit, Minor Offense	\$50

(d) Littering/Improper Disposal of Trash

(a) Minor Littering (i.e., lunch bag, bottle)	\$75
(b) Major Littering (i.e., bag of garbage)	\$150
(c) Aggravated Littering (dumping, polluting body of water, improper disposal of animal remains, etc.)	Mandatory
(d) Improper Disposal of Trash	\$75
(e) Intentional Clogging of a Toilet	\$75
(f) Disposal of Outside Trash in Govt. Receptacle	\$75
(g) Improper Disposal of Human Waste	\$75
(h) Possession of Non-Burnable, Non-Reusable Food or Beverage Containers	\$75
(i) Caching Equipment, Supplies, Property	\$75

(b) Camping Violations

(a) Improper Use of Campsites

(a) Failure to Pay Fee	\$50 per day
(b) Camping in Undesignated Area	\$50
(c) Camping in Excess of Time Limit	\$100
(d) Camping Too Close to Water	\$50
(e) Violation of Posted Quiet Hours	\$75
(f) Alteration of Campsite (digging, cutting, etc.)	\$50
(g) Excessive Noise	\$75
(h) Sanitation Violation	\$75
(i) Food Storage Violation	\$75
(j) Unlawful Use of Generator or Utility Connection	\$75
(k) Exceeding Campsite Occupancy Restriction	\$50
(l) Failure to Obtain Permit or Violation of Any Other Designated Condition or Supervisor Order	\$50
(m) Use of a Recreational Vehicle in Campsite Designated for Primitive Camping Only	\$75
(n) Failure to Occupy First Night	\$50
(o) Occupation of Site for Other than Recreational Purpose	\$50
(p) Improper Use of a Water Facility (i.e., washing at fresh Water spigot)	\$50
(q) Occupying Day-Use Areas b/w 10pm and 6 am	\$50

(r) Occupation of Campsite By Persons Other Than Registered Users or Their Guests	\$75
(s) Non-occupants Entering Campground During Prescribed night periods	\$75
(t) Use of Prohibited Camping Equipment	\$75
(u) Illegal Parking in Campground	\$50

(b) Illegal Occupancy

(a) Maintaining a Permanent Camp	\$150
(b) Constructing/maintaining Improvements w/o permit	\$100
(c) Squatting/Illegal Occupancy	
(a) Minor	\$75
(b) Major	\$150
(c) Aggravated	Mandatory

(c) Littering & Use of Fire

(a) Abandoning Equipment/Littering	\$75
(b) Littering	\$75
(c) Failure to Leave a Clean Campsite or Fully Extinguish Campfire	\$75
(d) Unlawful Campfire	\$75
(e) Leaving Campfire Unattended	\$75
(f) Violation of Closure Order Related to Use of Fire	\$150

(d) Personal Misconduct (See also Section VI "Personal Conduct Offenses.")

(a) Failure to Obey Lawful Instructions of Campground Host or Law Enforcement Officer	\$150
(b) Communicating a Threat to Campground Host, Law Enforcement Officer, or Other Person	\$150
(c) Discharging Fireworks	\$100
(d) Possession of Fireworks	\$75

- | | |
|--|-------|
| (e) Discharging Airgun, Gasgun, or Paint | \$100 |
| Ball Gun in or into a Campground or Campsite | |
| (See Section VI, Part E for <u>Firearm</u> Offenses) | |

(c) Motor Vehicle Offenses

(a) Driving Offenses (Where Appropriate, Also Applies to Off Road Operation)

i. Driving While Impaired, Revoked, Suspended, or Not Licensed

- | | |
|--|-----------|
| (a) Driving While Impaired | Mandatory |
| (b) Impaired Supervision or Instruction | Mandatory |
| (c) Aid & Abet DWI | Mandatory |
| (d) Driving After Consuming Alcohol/Controlled
Substance (Under Age 21) | Mandatory |
| (e) Failure to Submit to BAC Test | Mandatory |
| (f) Driving While License Revoked | Mandatory |
| (g) Driving While License Revoked (not for DWI) | \$150 |
| (h) Driving While License Suspended (not for DWI) | \$150 |
| (i) Careless and Reckless Driving | \$150 |
| (j) Allowing Unlicensed Minor, Allowing Any Person With a
Revoked License to Drive a Motor Vehicle, or Allowing Any
Unlicensed Person to Drive | \$100 |

ii. Speeding

- | | |
|---|-----------|
| (a) Speeding Up to 25 mph over limit, Too Fast for Conditions | \$75 |
| (b) Speeding 26 MPH or More Over Posted Limit | \$150 |
| (c) Aggravated Speeding | Mandatory |
| (d) Speeding to Elude or Flee | Mandatory |
| (e) Speeding in Work Zone | \$250 |

iii. Failure to Obey Rules of the Road

- | | |
|--|-----------|
| (a) Failure to Yield to Blue Light and Siren | Mandatory |
| (b) Failure to Utilize Slow Lane/Pull out When Warranted | \$75 |
| (c) Failure to Turn Lights at Night/While Wipers in | \$75 |

Operation		
(d) Failure to Dim Headlights	\$75	
(e) Failure to Yield Right-Of-Way		\$75
(f) Failure to Yield to Pedestrian		\$75
(g) Failure to Comply with Directions of Any Traffic	\$75	
Control Device/Sign		
(h) Failure to Comply with Traffic Instructions of Law	\$150	
Enforcement Officer, Fireman, Paramedic, or Other Properly Designated Person		
(i) Failure to Yield at Least ½ Road to Oncoming Vehicle	\$75	
(j) Failure to Clear Passed Vehicle before Returning To Right Hand Lane (Cutting Off)	\$75	
(k) Failure to Provide Audio and or Visual Signal When Required		\$75
(l) Failure to Properly Yield	\$75	
(m) Failure to Dim Lights		\$75

iv. Offenses Related to Accidents

1. Leaving the Scene of an Accident (Except to report accident or seek medical or Police assistance)	Mandatory
2. Hit and Run	Mandatory
3. Failure to Leave Written Notice of Name and Address in Collision with Unattended Vehicle	Mandatory
(ii) Failure to Report Accident	\$100
(ii) Improper Moving/Towing of Vehicle Involved in Accident	\$100
6. Failure to Decrease Speed to Avoid an Accident	\$75

v. Passing Offenses

1. Passing a Stopped School Bus	Mandatory
2. Pass Motorist/Pedestrian/Equestrian/Cyclist In Unsafe Manner	\$75
3. Passing in Signed No Passing Zone	\$75
4. Passing Against Double Yellow Line	\$75

5.	Passing on Crest of Grade or Curve with Obstructed View	\$75
6.	Passing Another Vehicle, Cyclist, Equestrian Pedestrian with Oncoming Traffic, So As to Endanger	\$75
7.	Passing in Marked Intersection	\$75
8.	Passing on Right Side	\$75
9.	Failure of Passed Vehicle to Give Way	\$75

vi. Obstruction of Traffic, Dangerous Acts

(1)	Permanent Abandonment of Motor Vehicle	\$100
(2)	Commercial Vehicle on Restricted Road	
(1)	2 axles	\$75
(2)	Over 2 axles	\$150
3.	Obstructing Traffic	\$75
4.	Unreasonable Stopping of a Vehicle on a Road	\$75
5.	Driving Too Slowly, Impeding the Flow of Traffic	\$75
6.	Following Too Close	\$75
7.	Driving Left of Center Line	\$75
8.	Driving Left of Center Line When View of or From Oncoming Traffic Obstructed	\$100
9.	Operating a Moped Under Age 16	\$75
10.	Operating Vehicle on Wrong Side of the Road	\$75
11.	Operating Motorcycles More than Two Abreast	\$75
(l)	Operation of a Motor Vehicle on Undesignated or Prohibited Road	\$100
(m)	Pedestrians Standing, Sitting, or Laying Upon Road To Impede Traffic	\$75
(n)	Willful Racing	Mandatory

vii. Open Containers

(a)	Open Containers of Alcoholic Beverages:	
(a)	Readily Accessible to Drive Who has Been Consuming Alcoholic Beverages	\$100
(b)	Readily Accessible to Drive Who has not been Consuming Alcoholic Beverages with Passengers Who have not Attained Their	\$75

21st birthday

iii. Readily Accessible to Driver who has not \$75
Been Consuming Alcoholic Beverage

(d) Transporting Liquor with Broken Seal \$75

(b) Transport Wine/Spirit Liquor Permit Violation \$75

vii. Miscellaneous Provisions

(a) Damaging Land, Vegetation, or Wildlife \$100
(b) Operating an Unlawful Motorized Vehicle on a Road \$100
(c) Improper Operation of a Motor Vehicle Off Road \$100
(d) Violation of Any Other State/Federal/Local Traffic Law \$75
(e) Violation of Any Other State/Federal/Local Off Road \$75
Vehicle Law

(b) Documentation Offenses

(a) Operating a Motor Vehicle with an Altered, Forged, Stolen Mandatory
or Borrowed License
(b) Operating a Motor Vehicle Inconsistent With a Limited Mandatory
Privilege License Issued Upon DWI/DUI Conviction
(c) No Insurance \$100
(d) No Commercial Driver's License \$100
(e) Intentionally Obscured Tag \$75
(f) No Tag \$75
(g) Fictitious Registration/Plates Mandatory
(h) Driver's License Not In Possession \$50
(i) Expired Driver's License \$50
(j) Invalid Out-of-State/Foreign Driver's License \$50
(k) Possession of Revoked Out-of-State License Mandatory
(l) Expired Tag \$50
(m) Expired Inspection Sticker \$50
(n) Exceeding Driver's License Endorsements \$50
(o) Motorcycle w/o Endorsements \$50
(p) No Registration Certificate \$50
17. Failure to Change Address w/i 30 days \$50

18. Failure to Produce and Exhibit Driver's License	\$50
19. Any Other Documentation Offense	\$50

3. Equipment Offenses

(a) Failure to Weigh Vehicle at Official Station		Mandatory
(b) Exceeding Load, Size, Weight, Axle Restriction	\$75	
(c) Operating a Vehicle so as to Cause Unreasonable Damage to Road Surface	\$75	
(d) Load Beyond Left Fender/Or 6 or More Feet From Right Fender	\$75	
(e) Improper Equipment, Generally	\$50	
(f) Unsafe Tires	\$50	
(g) Improper, Unsafe, or Absence of Brakes	\$50	
(h) Improper Mirrors	\$50	
(i) Improper Flagging of Load	\$50	
(j) Obstruction of Windshield	\$50	
(k) Improper Tinting of Windows		\$50
(l) Excessive Noise: Muffler; Stereo; Squealing Tires	\$75	
(m) Improper Muffler	\$50	
(n) Improper Emissions (lack of system; excessive Smoke)	\$50	
(o) Failure to Use Lights in Appropriate Circumstances (Rain, tunnels, fog, night, etc.)		\$50
(p) Improper or Non-Functioning headlights, taillights, Turn signals		\$50
(q) Any Light Violation for Motorcycles		\$50
(r) Any Light Violation for Automobile		\$50
(s) Failure of Motorcycle Operator or Adult Passenger To Wear Helmet		\$50
(t) Operation of a Motorcycle without a Helmet on a Child Passenger (under 16 years old; offense charged to Operator)	\$100	
(u) Operation of a Motorcycle with More Passengers than it Was Designed to Carry	\$75	
(v) Motorcycle Failure to Burn Headlamp		\$50
(w) Failure to Wear Seatbelt	\$50	

(x) Operation of a Motor Vehicle with a Child Not Restrained in Compliance with Current State Law (No car seat, seat belt, in back of pick up truck, etc.)	\$100
(y) Vehicle Overloaded with Passengers	\$50
(z) Vehicle Overloaded with Passengers in a Manner That Obstructs Driver's Ability to View or Operate Safely	\$75
(aa) Overloading a Commercial Vehicle with Passengers	\$100
(bb) Allowing Passengers to ride on or in any part of Vehicle or Trailer Not Designed to carry Passengers	\$75
(cc) Registration Plate Not Properly Attached	\$50
(dd) Any Other Equipment Offense	\$50

4. Parking Offenses

(a) Parking of a Motor Vehicle on a Roadway	\$75
(b) Parking of a Motor Vehicle in an improper place Off the Roadway	\$75
(c) Improper Parking or Use of a Motor Vehicle in An Area, Road, Lot, or Facility Designed for Handicapped Use Only	\$100
(d) Improper Use or Display of Handicap Tag or Permit	\$100
(e) Parking Without Paying User Fee	\$50
(f) Parking in Excess of Time Limit	\$50
(g) Parking in Other Than Designated Space	\$50
(h) Parking that Actually Impedes Emergency Access	\$100
(i) Parking that Blocks a Gate, Trail, Facility, Kiosk	\$75
(j) Parking in a Fire Lane, in Front of a Hydrant or Signed Water Point	\$75
(k) Parking Impeding Access to a Signed Helipad or Helipoint	\$75
(l) Parking in a marked 'Reserved' space	\$75
(m) All Other Parking Offenses	\$50

5. Bicycling Offenses

(a) Riding in Undesignated, Prohibited, Primitive or	\$75
--	------

Closed Area, Road, or Trail	
(b) Failure of Parent or Guardian to Require Child to Wear Helmet as Required by State Law	\$75
(c) Failure to Obey Any Applicable Traffic Regulation	\$50
(d) Improper or Non Use of Lights/Reflector When Required	\$50
(e) Operation of Bicycle While Possessing an Open Container or Alcoholic Beverage or Consuming An Alcoholic Beverage	\$50
(f) Operation of Bicycles Two Abreast Where Prohibited (since this is opposite of NC law, Officers should first attempt to warn cyclists of regulation either through signs or personal contact. Where cyclists yield to overtaking traffic by collapsing Into single file, citation should be avoided)	\$50

6. Miscellaneous Vehicle/Roadway Offenses

(a) Hitchhiking	\$50
(b) Soliciting, Posting Handbills	\$50
(c) Removal of Plants or Plant Material from Roadside	
(a) Minor (i.e., picking flowers)	\$50
(b) Major (i.e., digging a plant)	\$100
(c) Aggravated (harvesting)	Mandatory
(d) Removal or Vandalism of Any Road Sign	Mandatory
(e) Vandalism	
(a) Minor (capable of being remedied)	\$150
(b) Major (permanent damage)	Mandatory

IV. Improper Commercial or Private Use

(a) Sale of alcoholic beverages or any other intoxicant	Mandatory
(b) Construction of building, facility, road, trail, or bridge without a permit or a contract	Mandatory
(c) Any unlawful discrimination in employment, accommodations, transportation, etc.	Mandatory

(d) Prospecting, Mining, Harvesting, or Foraging	\$100
(e) Commercial photography, motion picture making, television production, ad shooting, or sound trace recording without a permit	\$100
(6) Advertising, soliciting, selling, posting of signs or engaging in business without a permit	\$75
(g) Unauthorized use of a commercial passenger vehicle	\$75
(h) Creating and/or maintaining a nuisance	\$75
(i) Improperly Charging a Fee for Admission, Participating, Etc.	\$50
(j) Unlawful Possession or Use of Specified Camping Packing, or Outfitting Equipment	\$100
11. Unlawful Use of a Government Trademark, Copyright, Symbol	\$75
12. Unlawful Use of Government Land for Agricultural Purpose	\$50
13. Failure to Pay Fee, Generally	\$50
14. Fraudulent Use of a Recreational 'Passport', pass, or senior discount	\$50
15. Violation of Any Other Regulation, Limitation, Closure or Rule	\$50
16. Violation of Condition/Term of Permit or Failure to Obtain Permit	\$150

V. Substance Abuse Offenses

A. Alcohol Related

1. Possession of Open Container in Undesignated Place	\$50
2. Consume Alcohol Street, Highway, Public Place or Where Prohibited	\$50
3. Possession, Purchase, or Consumption by a Minor	
A. Under Age 18	Mandatory
B. Age 18, 19, or 20	\$75
4. Providing Alcoholic Beverage to a Minor	\$100
5. Possession of Non-Tax Paid Liquor	\$100
6. Drunk and Disorderly	\$100
7. Drunk and Endangering Self or Others (i.e., operating machinery)	\$100
8. Any other alcohol offense, including violation of Any rule, ordinance, posted order, or local law	\$50

B. Controlled Substances

- | | |
|--|-----------|
| 1. Simple Possession of 1/4th ounce (7.7 grams) or Less of Marijuana | \$250 |
| 2. Possession of Paraphernalia | \$100 |
| 3. Inhaling Fumes for Intoxication | Mandatory |
| 4. Possession of Any Other Controlled Substance | Mandatory |

VI. Personal Conduct Offenses

A. Assaults

- | | |
|---|-----------|
| 1. Simple Assault | \$150 |
| 2. Aggravated Assault | Mandatory |
| 3. Felony Assault (deadly weapon, assault on a Female, assault on an officer, etc.) | Mandatory |
| 4. Assault on the Handicapped | Mandatory |

B. Child Abuse

MANDATORY

C. Disorderly Conduct

- | | |
|--|-----------|
| 1. Damaging Coin or Currency Operated Machine | Mandatory |
| 2. Defacing Public Building | Mandatory |
| 3. Ethnic Intimidation | Mandatory |
| 4. Disorderly Conduct | \$150 |
| 5. Failure to Disperse | \$100 |
| 6. Failure to Obey Command | \$150 |
| 7. Indecent Exposure/Nudity | \$50 |
| 8. Injure/Tamper with Vehicle | Mandatory |
| 9. Injure Personal Property | Mandatory |
| 10. Injure Real Property, Land, Crops, or Timber | Mandatory |

11. Peeping in Room Occupied by Female	Mandatory
12. Simple Affray	\$50
13. Interfering with Officer, Employee, or Volunteer In Performance of Their Duties	
A. Minor	\$150
B. Major	Mandatory
14. Engaging in Fighting	\$150
15. Excessive Noise (verbal, device, vehicle, animal, etc)	\$75
16. Operate a PA System without a Permit	\$50
17. Use of Land, Facility, Group Campground w/o Authorization	\$100
18. Violation of Terms or Conditions of Contract, Plan Permit Authorizing Use	\$100

D. False Information

1. Any False 911 Call	Mandatory
2. Any False Fire, Police, or Medical Call	Mandatory
3. Any False Bomb Report	Mandatory
4. False Information Provided to Officer or Firefighter	
A. Minor	\$150
B. Major	Mandatory
5. Hoax by Use of False Bomb/Device	Mandatory

E. Firearms

1. Concealed Carry Permittees:	
A. Carrying Concealed in Prohibited Area	\$50
B. Failure to Tell Law Enforcement Officer Of Presence of Concealed Weapon	\$100
2. Caliber and/or Barrel Length Violation	\$50
3. No Transportation/Access Permit, where required	\$50
4. Transporting an Improperly Stored or Broken Down Weapon	\$50
5. Concealed Firearm	Mandatory
6. Possession of Firearm in Prohibited Area	\$150
7. All Other Firearms Offenses	Mandatory

8. Possession of Handgun by Minor	Mandatory
9. Improper or Unsafe Discharge	\$150

F. Communicating Threats

1. Communicating a Threat	Mandatory
2. Harassing Phone Calls	Mandatory
3. Hoax by Use of False Bomb/Device or False Deadly Weapon	
4. Inciting or Producing Imminent Lawless Action	Mandatory
5. Profane, Indecent Language on Public Highway	\$150
6. Offensive, Derisive, or annoying communication Tending to cause violence	\$150

G. Use/Prevention of Fire

1. Throwing/Placing Substance that may cause fire	Mandatory
2. Firing Tracers/Incendiary Ammunition	Mandatory
3. Burning without a permit	Mandatory
4. Failure to Fully Extinguish Fire	\$75
5. Leaving Fire Unattended	\$75
6. Starting Campfire when Prohibited	\$75
7. Allowing Fire to Escape	Mandatory
8. Failure to Clear Area around campfire	\$75
9. Campfire too close to tent, structure, vehicle	\$75
10. Building Fire Outside fire ring	\$75
11. Use/Possession of Fireworks or Pyrotechnic Device	\$75
12. Smoking	\$50
13. Entering Closed Area	\$50
14. Entering Area w/o Firefighting Tool	\$50
15. Illegal Operation of Internal-Combustion Engine	\$50
16. No Spark Arrestor	\$75
17. Welding/Operating Torch	\$50
18. Violating State Burning Law or Ban	\$150

H. Taking Timber/Forest Products

1.	Taking of Down Timber for Personal Use w/o permit	\$100
2.	Cutting Timber in Excess of Permit	\$150
3.	Cutting Before Marking Under Permit	\$150
4.	Cutting Timber Where Prohibited (i.e., Park, Parkway, etc.)	\$150
5.	Removing Forest Products Under Permit w/o Scaling	\$150
6.	Illegally Marking Timber	\$150
7.	Felling or Moving Timber so as to Create an Obstruction to road, trail, path, or watercourse	\$150
8.	Removal of Timber under permit w/o first Affixing Required Identification	\$150
9.	Selling Timber or Forest Products Obtained under personal Use Permit	\$100
10.	Violation of Timber Export	Mandatory
11.	Removing Timber or Forest Products without Permit	
	A. Minor (Personal use, non-commercial, small amount)	\$75
	B. Major (Personal use, large amount)	\$100
	C. Aggravated (Commercial use, small amount)	\$200
	D. Commercial Use, Large Amount	Mandatory
12.	Possessing, storing, or transporting any part of a tree Or other specified plant	\$75
13.	Moving, Taking, Obscuring, or Defacing a Boundary Marker, Monument, or Sign, a Timber Sale Marker, A Trail sign, Blaze, or other Marker, or any Sign or Designation Intended to Mark a Wildlife or Fishing Boundary	
	A. Minor	\$200
	B. Major	Mandatory

(a) Animal Control

(a)	Dog off leash	\$50
(b)	Unauthorized Livestock	\$50
(c)	Failure to Remove Livestock	\$50
(d)	Grazing	\$75
(e)	Failure to Re-Close Gate/Propping Open a Closed Gate	\$50
(f)	Releasing/Removing/Harassing Impounded Livestock	Mandatory
(g)	Animal in Swimming Area	\$50
(h)	Unauthorized Pack, Saddle, Draft Animal	\$50

(i) Improper Tethering	\$50
(j) Unauthorized Animal (i.e., wild or exotic pet)	\$50
(k) Any Other Animal Related Offense	\$50

7. Boating and Personal Watercraft Offenses

1. Improper Operation of Vessels and Personal Watercraft

1. Exceeding NO WAKE within 100' of Identified Structure	\$50
2. Too Close to Another Vessel Greater than 10 MPH	\$50
3. Towing Water Skis or Surfboard at Night	\$50
4. Improper Operation Between Sunset and Sunrise	\$50
5. Failure to Wear Engine Cut-off Safety Lanyard	\$50
6. Closer than 50 Feet from Diver's Flag	\$50
7. Inside Restricted Swimming Area	\$50
8. Boating in Closed/Prohibited Area	\$50
9. Improper Operation in a Regulated Boating Area	\$50
10. Failure to Report Accident	Mandatory
11. Failing to Render Aid After Collision	Mandatory
12. Overloaded Boat/Unsafe Condition	\$50
13. Allowing Non-Certified Person Under Age 16 to Operate	\$50
A personal watercraft	
14. Operating Personal Watercraft Under Age 16 w/o	\$50
Operator's Course	
15. Operation Under the Influence	Mandatory
16. Consumption, Open Container, by Operator	\$50
17. Reckless Operation	Mandatory
18. Waterskiing Where Prohibited	\$75
19. Reckless Surfing, Skiing, Waterboarding, Parasailing, Ski-Kiting, etc., that Endangers	Mandatory
20. Towing Skiers, Surfer, Waterboarder, etc., w/o	\$50
An Observer, Mirror, or PFE, or AT NIGHT	
21. Manifestly Unsafe Voyage	\$50
22. Speeding	\$50
23. Operation in Violation of Federal/State/Local Law	\$50
24. Improper/Unauthorized Operation of Seaplane	Mandatory
25. Operation of Seaplane in Violation of Any Marine Rules	Mandatory

2. Improper Equipment

1. Maintaining a Marine Toilet without a Sewage Treatment Device or Holding Tank	\$100
2. Each PFD Violation (type, sizing, stowage, etc.)	\$50
3. No Fire Extinguishers	\$50
4. Not Numbered	\$50
5. Certificate of Number Not in Effect	\$50
6. Wrong Number	\$50
7. Improper Capacity Marking	\$50
8. Fuel Leakage or Accumulation in Bilges or Compartments	\$50
9. Fuel Ventilation Violation	\$50
10. Backfire Flame Control	\$50
11. Unlawful Possession of Boat Motor Upon or in the Vicinity Of Waters Closed to Such Use	\$75
12. Using Vessel Not Constructed/Maintained in Compliance With 'National Safe Boating Act of 1971'	\$50

3. Improper Use of Access Area, Dock, or Put In/Take Out

1. Improper Use of Boating Access Area	\$50
2. Launching at Other than Access area, Designated Ramp	\$50
3. Impeding Boat Access	\$50
4. Operation of a Vehicle Upon an Access Area so as To Endanger Life or Property	\$50
5. Possession of a Loaded Firearm on Boating Access Area	\$50
6. Failure to Heave-To for Blue Light & Siren	Mandatory
7. Interfering or Impeding Navigation in any Manner (I.e, attaching gill net across navigable watercourse)	Mandatory
8. Improper Discharge of Oil or Other Hazardous Substance	Mandatory
9. Improper Storage, Tying Off, of Watercraft	\$75
10. Unauthorized Placement or Operation of Vessel for Free	\$50

4. Miscellaneous Offenses

- | | |
|--|------|
| 1. Unauthorized use of Vessel, Watercraft, Pontoon, or Houseboat for Habitation | \$50 |
| 2. Failure to Moor, Remove from Mooring, or Place a Mooring Facility | \$75 |
| 3. Swimming, Diving, Snorkeling, Scuba Diving in Improper Area, from Improper Place, or at Improper Time | \$50 |
| 4. Scuba Diving Violations (flag, equipment, certification, etc.) | \$50 |
| 5. Piers, Docks, & Lighting of Structures, Permits, etc. | \$50 |
| 6. Improper Possession or Storage of Combustible Fuel | \$50 |
| 7. All Other Offenses | \$50 |

8. Mandatory Appearance Required

1. All Major Crimes
2. All Pleas of Not Guilty
3. All Felonies
4. Defendant Charged with MORE THAN THREE Offenses
5. Any Misdemeanor Provision Not Covered is Mandatory

9. Guidelines From The Court

1. Where collateral is insufficient for the offense, officer may make any offense Mandatory
2. Unlike the previous system of multiple schedules, this schedule provides consistent forfeitures for the numerous agencies having jurisdiction in the Western District of North Carolina. It is the responsibility of the agencies and the issuing officers to correlate the appropriate charge with the most similar collateral provided.
3. If the Code of Federal Regulations LIMITS the maximum amount of a fine for your agency, you may LOWER the collateral to match the MAXIMUM amount allowed.

**LOCAL RULES OF PRACTICE AND PROCEDURE
WESTERN DISTRICT OF NORTH CAROLINA**

APPENDIX A

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA**

_____ **DIVISION**
CIVIL NO. _____

_____)
_____)
_____)
_____)
_____)
_____)

Plaintiff[s],)

)

vs.) **CERTIFICATION AND REPORT OF**

) **INITIAL ATTORNEY’S CONFERENCE**

_____)
_____)
_____)
_____)
_____)
_____)
_____)
_____)
_____)

Defendant[s].)

_____)

Please fill in or check the appropriate blanks (print legibly) to certify completion of the Initial Attorney’s Conference and provide the required information to the Court. Where the parties were unable to agree on a specific provision or item, please so note and attach any necessary explanation. Please note that this information will be used as a guideline by the judge conducting the Initial Pretrial Conference or issuing the Pretrial Order and Case Management Plan.

4. Certification of Conference. Pursuant to Fed. R. Civ. P. 26(f), a meeting was held on _____ (date) [] at _____ (place) or [] by telephone and was conducted by the undersigned counsel for the designated parties in the above-captioned case.

5. Pre-Discovery Disclosures. The information required by Fed. R. Civ. P. 26(a)(1) (check one) [] has been exchanged [] will be exchanged by _____ (date).

6. Discovery Plan. The parties jointly propose to the court the following discovery plan: [Use separate paragraphs or subparagraphs as necessary if parties disagree.]

a) All discovery shall be commenced in time to be completed by _____ (date, ordinarily nine months from the date of this Certification and Report).

[i f n e e d e d] D i s c o v e r y o n

(identify any issues requiring early discovery) will be completed by _____ (date).

b)Discovery Limits:

- 1) Maximum of _____ (ordinarily 20) interrogatories by each party to any other party .
- 2) Maximum of _____ (ordinarily 20) requests for admission by each party to any other party.
- 3) Maximum of _____ depositions by plaintiff(s) and _____ by defendant(s) (ordinarily 6 each)[or _____ by each plaintiff and _____ by each defendant].

c) Reports from retained experts under Rule 26(a)(2) will be due:

-from plaintiff(s) by _____ (date)

-from defendant(s) by _____ (date)

Supplementations under Rule 26(e) due _____ (list time(s) or interval(s))

4. Other Items. [Attach separate paragraphs as necessary if parties disagree.]

a) The parties ☐ request ☐ do not request a conference with the court before entry of the scheduling order.

b) All potentially dispositive motions should be filed by _____ (date, ordinarily one month after the close of discovery)

c) Settlement:

☐ is likely

☐ is unlikely

☐ cannot be evaluated prior to _____ (date)

☐ may be enhanced by use of the following ADR procedure:

☐ Mediated Settlement Conference

☐ binding arbitration

☐ judicial settlement conference

☐ other _____

The parties agree that the above selected ADR procedure would be most useful if conducted:

☐ after resolution of any outstanding dispositive motions, but prior to further discovery;

☐ after an initial round of preliminary discovery to be completed by _____ (date);

- ☐ after the completion of discovery;
- ☐ after resolution of summary judgment motions, if any
- ☐ not applicable.

d) Final lists of witnesses and exhibits under Rule 26(a)(3) are due:

from plaintiff(s) by _____(date)

from defendant(s) by _____(date)

e) If the case is ultimately tried, trial is expected to take approximately _____ days.

5. Please identify any other matters regarding discovery or case management which may require the Court's attention (e.g., concerns re: confidentiality, protective orders, etc., unmovable scheduling conflicts)

Plaintiff's Counsel

Party

Date

Defendant's Counsel

Party

Date

Plaintiff's Counsel

Party

Date

Defendant's Counsel

Party

Date

Plaintiff's Counsel

Party

Date

Defendant's Counsel

Party

Date

Plaintiff's Counsel

Party

Date

Defendant's Counsel

Party

Date

(attach additional sheets if necessary)

LOCAL RULES OF PRACTICE AND PROCEDURE WESTERN DISTRICT OF NORTH CAROLINA

APPENDIX B

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA

CASE NO. _____

)
)
Plaintiff)
)
v.)
)
Defendant)
_____)

CONSENT TO PROCEED BEFORE A UNITED STATES MAGISTRATE JUDGE

In accordance with 28 U.S.C. §636(c) and Rule 73(b) of the Federal Rules of Civil Procedure, the undersigned counsel of record **CONSENTS** to have a United States Magistrate Judge conduct all further proceedings in this case, including bench or jury trial, and order the entry of final judgment.

Signed and dated this ____ day of _____, _____

Attorney for _____

MAGISTRATE JUDGES DO NOT CONDUCT TRIALS IN CRIMINAL FELONY CASES. ACCORDINGLY, CRIMINAL TRIALS DO NOT INTERFERE WITH THE SCHEDULING AND PROCESSING OF CIVIL CASES ASSIGNED TO MAGISTRATE JUDGES AND ARE THEREFORE RESOLVED SOONER.

REFUSAL TO CONSENT TO PROCEED BEFORE A UNITED STATES MAGISTRATE JUDGE

Consent to proceed before a United States Magistrate Judge for trial or order of an

entry of final judgment is refused. I understand that a United States Magistrate Judge may retain jurisdiction of this matter for purposes of resolving non-dispositive motions.

Signed and dated this _____ day of _____, _____

Attorney for _____

***PLAINTIFF IS TO SERVE THIS FORM ON ALL DEFENDANTS WITH THE COMPLAINT.**

***PLAINTIFF SHALL FILE THIS FORM ON OR BEFORE THE DATE THAT PLAINTIFF FIRST SEEKS SERVICE OF THE COMPLAINT UPON THE DEFENDANT(S) IN ANY MANNER PROVIDED BY RULE 4, Fed. R. Civ. Proc.**

***DEFENDANTS MUST FILE THIS FORM WITH THEIR FIRST RESPONSIVE PLEADING.**

Please see the reverse side for further information and directions.

CONSENT FORM INSTRUCTIONS

In the Western District of North Carolina, a new civil action is randomly assigned to either a District Judge or a Magistrate Judge at the time of filing. Upon filing, the plaintiff is to provide a copy of the Consent/Refusal Form to all defendants. **The plaintiff must serve this form on all defendants with their copy of the complaint.**

Each plaintiff must file this Consent/Refusal Form on or before the date that plaintiff first seeks service of the complaint upon the defendant(s) in any manner provided by Rule 4, Fed. R. Civ. Proc.

Each defendant's Consent/Refusal Form must be filed with said defendant's first responsive pleading.

A United States Magistrate Judge may, with the consent of the parties, conduct all proceedings in this civil action, including a bench or jury trial, and order the entry of final

judgment. See 28 U.S.C. §636 and F.R.C.P. 73. The statute provides for direct appeal to the U.S. Court of Appeals for the Fourth Circuit.

If this case has been randomly assigned to a District Judge and all parties consent to have the Magistrate Judge conduct all proceedings, the case may be referred to a Magistrate Judge.

If this case has been randomly assigned to a Magistrate Judge and not all parties consent, the Magistrate Judge may still be responsible for the pretrial processing of the case. The Magistrate Judge may hear and decide all non-dispositive pretrial and discovery matters. The Magistrate Judge may consider dispositive motions by issuing proposed findings and a recommendation to the District Judge in accordance with F.R.C.P. 72(a) and (b). When the Magistrate Judge has issued proposed findings and a recommendation on a dispositive motion, the case will be sent back to the Clerk of Court for random reassignment to a District Judge. Thereafter, if the dispositive motion does not resolve the case, the District Judge will return the file to the Magistrate Judge who will preside over the case until it is ready for trial. When the case is ready for trial, it will be returned to the District Judge for all further proceedings.

EACH PARTY HAS THE DUTY TO RESPOND TO THIS ADMINISTRATIVE ORDER BY FILING THE CONSENT/REFUSAL FORM. File the form on the reverse side of this Order with the Clerk of Court.

IT IS THEREFORE ORDERED that Plaintiff(s) serve a copy of the Consent/Refusal form on all defendants with the complaint.

Plaintiff must file an executed form on or before the date that plaintiff first seeks service of the complaint upon the defendant(s) in any manner provided by Rule 4, Fed. R. Civ. Proc.

Each defendant must file a Consent/Refusal Form with said defendant's first responsive pleading.

Frank G. Johns
Clerk, United States District Court

**LOCAL RULES OF PRACTICE AND PROCEDURE
WESTERN DISTRICT OF NORTH CAROLINA**

APPENDIX C

DISCLOSURE OF CORPORATE AFFILIATIONS AND OTHER ENTITIES WITH A DIRECT FINANCIAL INTEREST IN LITIGATION

ONLY ONE FORM NEED BE COMPLETED FOR EACH NONGOVERNMENTAL PARTY EVEN IF THE PARTY IS REPRESENTED BY MORE THAN ONE ATTORNEY. DISCLOSURES MUST BE FILED ON BEHALF OF INDIVIDUAL NONGOVERNMENTAL PARTIES AS WELL AS NONGOVERNMENTAL CORPORATE PARTIES. COUNSEL HAVE A CONTINUING DUTY TO UPDATE THIS INFORMATION. PLEASE FILE AN ORIGINAL AND ONE COPY OF THIS FORM. PLAINTIFF OR MOVING PARTY MUST SERVE THIS ON THE DEFENDANT(S) OR RESPONDENT(S) WHEN INITIAL SERVICE IS MADE.

_____ who is _____
(Name of party.) (Plaintiff/moving party or defendant.)

makes the following disclosure:

1. Is party a publicly held corporation or other publicly held entity?

{ } Yes { } No

2. Does party have any parent corporations ?

{ } Yes { } No

If yes, identify all parent corporations, including grandparent and great grandparent corporations: _____

3. Is 10% or more of the stock of a party owned by a publicly held corporation or other publicly held entity ? { } Yes { } No

If yes, identify all such owners: _____

-
4. Is there any other publicly held corporation or other publicly held entity that has a direct financial interest in the outcome of the litigation?

☐ Yes

☐ No

If yes, identify entity and nature of interest: _____

(Signature)

(Date)

